

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN SENATE JUNE 16, 2010

AMENDED IN ASSEMBLY MARCH 25, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2499

**Introduced by Assembly Member Portantino
(Coauthor: Assembly Member Fletcher)**

February 19, 2010

An act to amend Sections 11200, 11202, 11202.5, 11205, 11205.1, 11205.2, 40512.6, 41501, ~~42005~~, 42005.1, 42005.5, 42007, 42007.1, 42007.3, and 42007.4 of, to amend, repeal, and add Sections ~~1803.5 and 1808.7~~ 1803.5, 1808.7, and 42005 of, to repeal Section 11205.4 of, and to repeal and add Section 11208 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2499, as amended, Portantino. Vehicles: traffic violator school program.

(1) Existing law provides for the licensing and administration by the Department of Motor Vehicles of traffic violator schools, operators, and instructors in a classroom setting. Existing law also defines the term “traffic violator school” for purposes of the Vehicle Code to mean, among other things, a business that provides instruction in traffic safety, including, but not limited to, classroom traffic violator curricula.

Existing law authorizes a court, in lieu of adjudicating a traffic offense committed by a person who holds a specified class of driver's license, to order or permit the person to attend a licensed traffic violator school, licensed driving school, or other court-approved program of driving

instruction. Existing law also permits a court to order a continuance against a person who receives a notice to appear in court for a violation of a statute relating to the safe operation of a vehicle, in consideration for attendance at a licensed school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction, and after that attendance, to dismiss the complaint, as specified.

This bill would revise and recast these provisions and, instead, would authorize the court, after a deposit of bail and bail forfeiture, a plea of guilty or no contest, or a conviction, to order a continuance of the proceeding against a person who receives a notice to appear in court for a violation of a statute relating to safe operation of a vehicle, in consideration for attendance at a licensed school for traffic violators and order that the conviction be held confidential. The bill would prohibit the record of certain convictions from being confidential under these provisions. *The bill, on April 1, 2012, would delete specified provisions governing existing court or county contracts to provide traffic safety instructional services to traffic violations.*

The bill would also require that no violation point count be assessed if the record of conviction is confidential, unless other specified conditions apply. The bill would require that these provisions become operative on July 1, 2011.

(2) Existing law establishes traffic violator school licensing requirements and requires the Department of Motor Vehicles to license traffic violator school operators.

This bill would revise these requirements, including the licensing criteria applicable to a traffic violator school owner or operator and a person licensed as an owner/operator and who is so designated on the owner's license.

The bill would revise the requirements applicable to a court-approved program and would require a court-approved program that was in operation prior to January 1, 2011, to file an application for licensure as a traffic violator school by January 1, 2012. The bill would prohibit a court from approving a traffic safety program after January 1, 2011.

(3) Existing law authorizes a court, under contract, to use a court assistance program (CAP) to perform services related to the processing and monitoring of traffic violators and traffic violator schools and establishes requirements for the program.

The bill would *instead* authorize a ~~CAP~~ *traffic assistance program (TAP)* under contract with the Department of Motor Vehicles to assist in oversight activities.

This bill would delete provisions relating to both a monitoring report prepared by a CAP and other provisions that preclude the department or the court from removing a traffic violator school from a referral list if certain conditions are met. The bill would also delete provisions relating to a requirement that the Judicial Council collect and compile data on CAPs and traffic safety instruction.

The bill would authorize the court to charge a traffic violator fee to defray the costs incurred by a ~~CAP~~ *TAP* for traffic administration services provided to the court and to delegate collection of the fee to the ~~CAP~~ *TAP*. The bill would require that the fees be approved and regulated by the court and that the fee not exceed the actual costs incurred by the ~~CAP~~ *TAP*.

(4) Existing law requires a traffic violator school owner to file a bond of \$2,000 with the department.

The bill would increase the amount of the bond to \$15,000 for home study schools and require a \$2,000 bond for classroom-based schools.

(5) Existing law establishes fees related to the department's licensing of traffic violator schools.

This bill would discontinue the fee charged for the completion certificate and would, instead, require the department to charge fees for issuance of an original, renewal, or duplicate or corrected traffic violator school owner, operator, instructor, and branch or classroom location license. The bill would require the court to collect a single administrative fee to be collected from the person attending the traffic violator school, which would include an amount sufficient to defray the cost of monitoring traffic violator school instruction.

(6) Existing law requires the court to make available to persons who choose the traffic violator school, the current list of traffic violator schools, published by the department.

This bill would require the Department of Motor Vehicles to provide a list of licensed traffic violator schools on its Internet Web site, as specified, and to develop a Web-based database accessible by the courts and traffic violator schools to allow oversight of traffic violator school student enrollments and course completions.

The bill would also require, if a court or a ~~CAP~~ *TAP* provides a hard copy list of licensed traffic violator schools to a traffic violator, to provide only a current date-stamped list downloaded from the department's Internet Web site.

(7) Under existing law, with certain exceptions, a violation of the Vehicle Code is a crime.

Because this bill would change the definition of an existing crime, it would impose a state-mandated local program.

(8) The bill would make conforming changes.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Numerous studies around the country show a direct link
4 between the accumulation of traffic violator points and the
5 likelihood that a multiple traffic offender will at some time be
6 involved in a serious traffic accident resulting in injury, death, or
7 both. Sanctions alone are not the answer but should be coupled
8 with education that fosters safe driving habits to reduce traffic
9 safety risks.

10 (b) In 1984, the Legislature authorized a program designed to
11 reduce recidivism among multiple offenders. In exchange for
12 attendance at a traffic violator school (TVS), an offender's violation
13 is dismissed by the court, which in turn prevents the Department
14 of Motor Vehicles from imposing a point on the offender's driving
15 record. Use of this option has expanded significantly over the years
16 and now nearly 25 percent of all minor traffic offenses, numbering
17 over one million annually, are dismissed in exchange for attendance
18 at traffic violator schools.

19 (c) In addition, while current law only allows the first offense
20 within any 18-month period to be dismissed for TVS attendance,
21 if a superior court is unaware of the previous dismissal and allows
22 an offender to attend TVS more frequently, there is nothing the
23 department can do to enforce the law. As a result, many drivers
24 avoid sanctions that would otherwise be appropriate because of
25 the number and frequency of their violations.

26 (d) Currently, the department licenses approximately 400
27 classroom TVS programs, and superior courts have approved

1 approximately 200 home study programs, including Internet, video,
2 and paper-based correspondence programs. This divided
3 administration of education delivery has resulted in various
4 curricula without uniform criteria that would help achieve the
5 ultimate goal of traffic safety. In addition to variations in curricula,
6 the traffic violator schools operate under multiple regulatory,
7 oversight, and monitoring structures, because each court in a county
8 has different requirements under which a traffic violator school is
9 approved.

10 (e) To carry out local oversight of currently unlicensed traffic
11 violator schools, superior courts currently use court assistance
12 programs (CAPs) to monitor schools and act as a liaison between
13 traffic violators and the courts as well as violators and the
14 department. The critical services provided by CAPs have kept the
15 current system functioning, helped courts oversee their local traffic
16 violator programs, ensured that violators who do not have Internet
17 access find schools to attend, and otherwise served to guide
18 violators successfully through the process. Without this local
19 monitoring, the department and courts would be hard pressed to
20 run their TVS programs and any change in the current system
21 should include the use of services such as those of court assistance
22 programs.

23 (f) *With the corresponding shift to statewide regulation,*
24 *oversight, and monitoring of traffic violator schools by the*
25 *department, “court assistance programs” is no longer a title that*
26 *accurately reflects the execution of duties at the local level. For*
27 *this reason, the title of “court assistance program” will be changed*
28 *to “traffic assistance program.”*

29 ~~(f)~~

30 (g) However, with increasing use of TVS programs since 1984
31 and a recent study concluding that current programs do not reduce
32 the likelihood that attendees will be involved in fewer traffic
33 collisions or avoid committing additional traffic offenses, it must
34 be concluded that the current TVS system is not reaching its full
35 potential to meet the desired goals of the program.

36 ~~(g)~~

37 (h) Therefore, it is the intent of Legislature to make the TVS
38 program as effective as possible by developing a comprehensive
39 system of statewide regulation of traffic violator schools, thereby
40 ensuring uniform curricula and consistency in oversight and

1 monitoring. It is further the intent of the Legislature to bring all
2 traffic schools under the department's jurisdiction, charge the
3 department with developing curricula and licensing courses for all
4 modalities and specified personnel, utilize multiple third-party
5 contractors *or a traffic assistance program (TAP)* to conduct local
6 monitoring of the program, ensure traffic violator students have
7 fair and equal access to programs, and prohibit the masking of
8 traffic convictions for attendance at a TVS unless the school is
9 appropriately licensed by the department and the traffic violator
10 has no masked conviction within the previous 18 months.

11 SEC. 1.5. Section 1803.5 of the Vehicle Code is amended to
12 read:

13 1803.5. (a) In accordance with Section 41501 or 42005, the
14 clerk of a court or hearing officer, when a person who receives a
15 notice to appear at a court or board proceeding for a violation of
16 any statute relating to the safe operation of vehicles is granted a
17 continuance of the proceeding in consideration for attendance at
18 a school for traffic violators, a licensed driving school, or any other
19 court-approved program of driving instruction, and which results
20 in a dismissal of the complaint in consideration for that attendance,
21 shall prepare an abstract of the record of the court or board
22 proceeding, certify the abstract to be true and correct, and cause
23 the abstract to be forwarded to the department at its office at
24 Sacramento within 10 days after the complaint is dismissed.

25 ~~(b) This section shall remain in effect until July 1, 2011, and as~~
26 ~~of that date is repealed.~~

27 *(b) This section shall become inoperative on July 1, 2011, and,*
28 *as of January 1, 2012, is repealed, unless a later enacted statute*
29 *that is enacted before January 1, 2012, deletes or extends the dates*
30 *on which it becomes inoperative and is repealed.*

31 SEC. 1.7. Section 1803.5 is added to the Vehicle Code, to read:

32 1803.5. (a) In accordance with Section 41501 or 42005, the
33 clerk of a court or hearing officer, when a person who receives a
34 notice to appear at a court or board proceeding for a violation of
35 any statute relating to the safe operation of vehicles is granted a
36 continuance of the proceeding in consideration for completion of
37 a licensed program at a school for traffic violators, that results in
38 a designation of the conviction as confidential in consideration for
39 that attendance, shall prepare an abstract of the record of the court
40 or board proceeding that indicates that the person was convicted

1 of the violation and ordered to complete a traffic violator program,
2 certify the abstract to be true and correct, and cause the abstract
3 to be forwarded to the department at its office at Sacramento within
4 five days after granting a request or the entry of an order to attend
5 a traffic violator program.

6 (b) This section shall become operative on July 1, 2011.

7 SEC. 2. Section 1808.7 of the Vehicle Code is amended to
8 read:

9 1808.7. (a) The record of the department relating to the first
10 proceeding and dismissal under Section 1803.5 in any 18-month
11 period for participation by a person in a licensed school for traffic
12 violators, a licensed driving school, or any other court-approved
13 program of driving instruction, is confidential, shall not be
14 disclosed to any person, except a court, and shall be used only for
15 statistical purposes by the department.

16 ~~(b) This section shall remain in effect until July 1, 2011, and as~~
17 ~~of that date is repealed.~~

18 *(b) This section shall become inoperative on July 1, 2011, and,*
19 *as of January 1, 2012, is repealed, unless a later enacted statute*
20 *that is enacted before January 1, 2012, deletes or extends the dates*
21 *on which it becomes inoperative and is repealed.*

22 SEC. 2.5. Section 1808.7 is added to the Vehicle Code, to read:

23 1808.7. (a) The record of the department relating to the first
24 proceeding and conviction under Section 1803.5 in any 18-month
25 period for completion of a licensed traffic violator school program
26 is confidential, shall not be disclosed to any person, except a court
27 and as provided for in subdivision (b), and shall be used only for
28 statistical purposes by the department. No violation point count
29 shall be assessed pursuant to Section 12810 if the conviction is
30 confidential.

31 (b) The record of a conviction described in subdivision (a) shall
32 not be confidential if any of the following circumstances applies:

33 (1) The person convicted holds a commercial driver's license
34 as defined by Section 15210.

35 (2) The person convicted holds a commercial driver's license
36 in another state, in accordance with Part 383 of Title 49 of the
37 Code of Federal Regulations.

38 (3) The violation occurred in a commercial motor vehicle, as
39 defined in subdivision (b) of Section 15210.

1 (4) The conviction would result in a violation point count of
2 more than one point pursuant to Section 12810.

3 (c) This section shall become operative on July 1, 2011.

4 SEC. 3. Section 11200 of the Vehicle Code is amended to read:

5 11200. (a) The department shall license schools for traffic
6 violators for purposes of Section 41501 or 42005 and to provide
7 traffic safety instruction to other persons who elect to attend. A
8 person may not own or operate a traffic violator school or, except
9 as provided in Section 11206, give instruction for compensation
10 in a traffic violator school without a currently valid license issued
11 by the department.

12 (b) (1) Any person who elects to attend a traffic violator school
13 shall receive from the traffic violator school and shall sign a copy
14 of the following consumer disclosure statement prior to the
15 payment of the school fee and attending the school:

16
17 “Course content is limited to traffic violator curricula approved
18 by the Department of Motor Vehicles. Students in the classroom
19 include traffic offenders, repeat traffic offenders, adults, and
20 teenagers, and those who have and those who have not been
21 referred by a court. Instructor training, business regulatory
22 standards, and Vehicle Code requirements of traffic violator
23 schools are not equal to the training, standards, and Vehicle Code
24 requirements of licensed driving schools (California Vehicle Code
25 Section 11200(b)(1)).”

26
27 (2) In the case of a minor who elects to attend a traffic violator
28 school, the minor’s parent or guardian shall sign the consumer
29 disclosure statement.

30 (3) A copy of each signed disclosure statement shall be retained
31 by the traffic violator school for a minimum of 36 months.

32 (4) This subdivision does not apply to a person referred by a
33 court pursuant to Section 42005.

34 SEC. 4. Section 11202 of the Vehicle Code is amended to read:

35 11202. (a) Except as provided in subdivision (c), a traffic
36 violator school owner shall meet all of the following criteria before
37 a license may be issued for the traffic violator school:

38 (1) Maintain an established place of business in this state that
39 is open to the public. An office or place of business of a traffic
40 violator school, including any traffic violator school branch or

1 classroom location, shall not be situated within 500 feet of any
2 court of law.

3 (2) Conform to standards established by regulation of the
4 department. In adopting the standards, the department shall
5 consider those practices and instructional programs that may
6 reasonably foster the knowledge, skills, and judgment necessary
7 for compliance with traffic laws. The department shall establish
8 standards for each instructional modality, which may include
9 requirements specific to each modality. The standards may include,
10 but are not limited to, school personnel, equipment, curriculum,
11 procedures for the testing and evaluation of students,
12 recordkeeping, and business practices.

13 (3) Procure and file with the department a bond of fifteen
14 thousand dollars (\$15,000) for home study schools and two
15 thousand dollars (\$2,000) for classroom-based schools executed
16 by an admitted surety and conditioned upon the applicant not
17 practicing fraud or making a fraudulent representation that will
18 cause a monetary loss to a person taking instruction from the
19 applicant or to the state or any local authority.

20 (4) Have the proper equipment necessary for giving instruction
21 to traffic violators.

22 (5) Have a lesson plan approved by the department, except as
23 provided for in paragraph (2) of subdivision (c), and provide not
24 less than the minimum instructional time specified in the approved
25 plan. The approved plan shall include a postlesson knowledge test.
26 The lesson plan for each instructional modality shall require
27 separate approval by the department.

28 (6) (A) Execute and file with the department an instrument
29 designating the director as agent of the applicant for service of
30 process, as provided in this paragraph, in any action commenced
31 against the applicant arising out of a claim for damages suffered
32 by a person by the applicant's violation of a provision of this code
33 committed in relation to the specifications of the applicant's traffic
34 violator school or a condition of the bond required by paragraph
35 (3).

36 (B) The applicant shall stipulate in the instrument that a process
37 directed to the applicant, when personal service cannot be made
38 in this state after due diligence, may be served instead upon the
39 director or, in the director's absence from the department's
40 principal offices, upon an employee in charge of the office of the

1 director, and this substituted service is of the same effect as
2 personal service on the applicant. The instrument shall further
3 stipulate that the agency created by the designation shall continue
4 during the period covered by the license issued pursuant to this
5 section and so long thereafter as the applicant may be made to
6 answer in damages for a violation of this code for which the surety
7 may be made liable or a condition of the bond.

8 (C) The instrument designating the director as agent for service
9 of process shall be acknowledged by the applicant before a notary
10 public.

11 (D) If the director or an employee of the department, in lieu of
12 the director, is served with a summons and complaint on behalf
13 of the licensee, one copy of the summons and complaint shall be
14 left with the director or in the director's office in Sacramento or
15 mailed to the office of the director in Sacramento. A fee of five
16 dollars (\$5) shall also be paid to the director or employee at the
17 time of service of the copy of the summons and complaint, or shall
18 be included with a summons and complaint served by mail.

19 (E) The service on the director or department employee pursuant
20 to this paragraph is sufficient service on the licensee if a notice of
21 the service and a copy of the summons and complaint are, on the
22 same day as the service or mailing of the summons and complaint,
23 sent by registered mail by the plaintiff or his or her attorney to the
24 licensee. A copy of the summons and complaint shall also be
25 mailed by the plaintiff or plaintiff's attorney to the surety on the
26 licensee's bond at the address of the surety given in the bond,
27 postpaid and registered with request for return receipt.

28 (F) The director shall keep a record of all processes served
29 pursuant to this paragraph showing the day and hour of service,
30 and shall retain the documents served in the department's files.

31 (G) If the licensee is served with process by service upon the
32 director or a department employee in lieu of the director, the
33 licensee has 30 days after that service within which to answer any
34 complaint or other pleading filed in the cause. For purposes of
35 venue, if the licensee is served with process by service upon the
36 director or a department employee in lieu of the director, the service
37 is considered to have been made upon the licensee in the county
38 in which the licensee has or last had his or her established place
39 of business.

1 (7) (A) Meet the requirements of Section 11202.5, relating to
2 traffic violator school operators, if the owner is also the operator
3 of the traffic violator school. If the owner is not designated to act
4 as the operator of the traffic violator school, the owner shall
5 designate an employee as operator who shall meet the requirements
6 of Section 11202.5.

7 ~~(B) A person may only be designated as the operator for one~~
8 ~~traffic violator school owner for schools that share a single~~
9 ~~established business location.~~

10 (B) *A person may be an operator for more than one traffic*
11 *school if (i) the schools have a common owner or owners and (ii)*
12 *the schools share a single established business address.*

13 (C) A traffic violator school with multiple branch locations may
14 designate a separate operator for each location, but shall designate
15 one of the operators as the primary contact for the department.

16 (8) Have an instructor who meets the requirements of Section
17 11206. An owner who is designated as the operator for the school
18 is authorized to act as an instructor without meeting the
19 requirements of Section 11206. The owner license may also include
20 authorization to act as an instructor if the owner is not designated
21 as the operator but meets the requirements of Section 11206. The
22 owner license shall specify if the owner is authorized to offer
23 instruction. If the owner is not approved to act as an instructor, the
24 school must employ an instructor licensed pursuant to Section
25 11206.

26 (9) Provide the department with a written assurance that the
27 school will comply with the applicable provisions of Subchapter
28 II or III of the Americans with Disabilities Act of 1990 (42 U.S.C.
29 Sec. 12101 et seq.), and any other federal and state laws prohibiting
30 discrimination against individuals with disabilities. Compliance
31 may include providing sign language interpreters or other
32 accommodations for students with disabilities.

33 (b) The qualifying requirements specified in subdivision (a)
34 shall be met within one year from the date of application for a
35 license, or a new application and fee are required.

36 (c) A court-approved program that was in operation prior to
37 January 1, 2011, shall file an application for licensure as a traffic
38 violator school by January 1, 2012. A court shall not approve a
39 traffic violator school program after January 1, 2011.

1 (1) A court-approved program may continue to operate as
2 approved by a court until the department makes a licensing
3 decision.

4 (2) A court-approved program shall be exempt from paragraph
5 (5) of subdivision (a). The licensed program may continue to use
6 the curriculum approved by the court until the department
7 establishes curriculum standards in regulation. The court-approved
8 program must comply with the new curriculum standards by the
9 effective date established in regulation.

10 (d) Paragraphs (3) and (6) of subdivision (a) do not apply to
11 public schools or other public agencies, which shall also not be
12 required to post a cash deposit pursuant to Section 11203.

13 (e) Paragraph (7) of subdivision (a) does not apply to public
14 schools or other public educational institutions.

15 (f) A notice approved by the department shall be posted in every
16 traffic violator school, branch, and classroom location stating that
17 any person involved in the offering of, or soliciting for, a
18 completion certificate for attendance at a traffic violator school
19 program in which the person does not attend or does not complete
20 the minimum amount of instruction time may be guilty of violating
21 Section 134 of the Penal Code.

22 SEC. 4.5. Section 11202.5 of the Vehicle Code is amended to
23 read:

24 11202.5. (a) The department shall license traffic violator school
25 operators. A person shall not act as a traffic violator school operator
26 without a currently valid license issued by the department, unless
27 the person is an owner/operator and is so designated on the owner's
28 license. Every person, in order to qualify as a traffic violator school
29 operator, shall meet all of the following criteria in order to be
30 issued a traffic violator school operator's license:

31 (1) Have not committed any act which, if the applicant were
32 licensed as a traffic violator school operator, would be grounds
33 for suspension or revocation of the license.

34 (2) Within three attempts, pass an examination that the
35 department requires on traffic laws, safe driving practices,
36 operation of motor vehicles, teaching methods and techniques,
37 traffic violator school statutes and regulations, and office
38 procedures and recordkeeping.

39 (3) Be 21 years of age or older.

1 (4) Have successfully completed an educational program of not
2 less than four hours. The program shall include, but is not limited
3 to, operator responsibilities, current laws, and the regulations in
4 Article 4 of Title 13 of the California Code of Regulations. The
5 instruction may be provided by generally accredited educational
6 institutions, private vocational schools, and education programs
7 and seminars offered by professional societies, organizations, trade
8 associations, and other educational and technical programs that
9 meet the requirements of this section.

10 (5) Provide a certification from the owner that the applicant has
11 the knowledge necessary to perform the duties of the operator.

12 (b) All the qualifying requirements specified in this section shall
13 be met within one year from the date of application for the license
14 or the application shall lapse. However, the applicant may thereafter
15 submit a new application upon payment of the required fee.

16 SEC. 5. Section 11205 of the Vehicle Code, as amended by
17 Section 1 of Chapter 518 of the Statutes of 2003, is amended to
18 read:

19 11205. (a) The department shall provide a list of licensed
20 traffic violator schools on its Internet Web site. For each licensed
21 school, the list shall indicate the modalities of instruction offered
22 and specify the cities where classroom instruction is offered. The
23 sequential listing of licensed schools shall be randomized daily.

24 (b) If a court or ~~court assistance program (CAP)~~ *traffic*
25 *assistance program (TAP)* provides a hard copy list of licensed
26 traffic violator schools to a traffic violator, the court or ~~CAP~~ *TAP*
27 shall provide only a current date-stamped list downloaded from
28 the department's Internet Web site. As used in this section,
29 "current" means not more than 30 days old.

30 (c) The department shall develop a Web-based database
31 accessible by the courts and traffic violator schools to allow
32 oversight of traffic violator school student enrollments and course
33 completions.

34 SEC. 6. Section 11205.1 of the Vehicle Code is amended to
35 read:

36 11205.1. The fee authorized in subdivision (c) of Section
37 11205.2 shall be applicable only in those instances where a traffic
38 violator has agreed to attend or has been ordered to attend a traffic
39 violator school pursuant to Section 41501 or 42005.

SEC. 7. Section 11205.2 of the Vehicle Code is amended to read:

11205.2. (a) As used in this chapter, a ~~court assistance program (CAP)~~ *traffic assistance program (TAP)* is a public or private nonprofit agency that provides services, under contract with a court to process traffic violators or under contract with the department to assist in oversight activities.

(b) A court may use a ~~CAP~~ *TAP* to assist the court in performing services related to the processing of traffic violators. As used in this section, “services” means those services relating to the processing of traffic infraction cases at, and for, the court, including printing and providing to the court and traffic violators hard copy county-specific lists printed from the department’s Internet Web site, administratively assisting traffic violators, and any other lawful activity relating to the administration of the court’s traffic infraction caseload.

(c) The court may charge a traffic violator a fee to defray the costs incurred by a ~~court assistance program~~ *TAP* for traffic case administration services provided to the court pursuant to subdivision (b). The court may delegate collection of the fee to the ~~court assistance program~~ *TAP*. Fees shall be approved and regulated by the court. The fee shall not exceed the actual costs incurred by the ~~court assistance program~~ *TAP* for the activities authorized under subdivision (b).

SEC. 8. Section 11205.4 of the Vehicle Code is repealed.

SEC. 9. Section 11208 of the Vehicle Code is repealed.

SEC. 10. Section 11208 is added to the Vehicle Code, to read:

11208. (a) The department shall charge a fee, to be determined by the department, for the following traffic violator school program activities:

(1) Original issuance of a traffic violator school owner, operator, instructor, and branch or classroom location license.

(2) Renewal of a traffic violator school owner, operator, instructor, and branch or classroom location license.

(3) Issuance of a duplicate or corrected traffic violator school owner, operator, instructor, and branch or classroom location license.

(4) Transfer of an operator or instructor license from one traffic violator school to another.

1 (5) Approval of curriculum, based on the instructional modality
2 of the curriculum.

3 (6) Fees for administering the examinations pursuant to Sections
4 11206 and 11207.

5 (b) The fees authorized under subdivision (a) shall be sufficient
6 to defray the actual cost to the department to administer the traffic
7 violator school program, except for routine monitoring of
8 instruction.

9 (c) A single administrative fee shall be assessed against, and
10 collected by the court from, each driver who is allowed or ordered
11 to attend traffic violator school. Included in this fee shall be an
12 amount determined by the department to be sufficient to defray
13 the cost of routine monitoring of traffic violator school instruction.

14 SEC. 11. Section 40512.6 of the Vehicle Code is amended to
15 read:

16 40512.6. If a defendant who elects or is ordered to attend a
17 traffic violator school in accordance with Section 42005 and has
18 paid the full traffic violator school fee under Section 42007 fails
19 to submit proof of completion within the time ordered by the court
20 or any extension thereof, the court may, following notice to the
21 defendant, order that the fee paid by the defendant be converted
22 to bail and declare the bail forfeited. The bail forfeiture under this
23 section shall be distributed as provided by Section 42007. Upon
24 forfeiture of the bail, the court may order that no further
25 proceedings shall be had in the case.

26 SEC. 12. Section 41501 of the Vehicle Code is amended to
27 read:

28 41501. (a) After a deposit of bail and bail forfeiture, a plea of
29 guilty or no contest, or a conviction, the court may order a
30 continuance of a proceeding against a person, who receives a notice
31 to appear in court for a violation of a statute relating to the safe
32 operation of a vehicle, in consideration for attendance at a licensed
33 school for traffic violators and pursuant to Section 1803.5 or 42005,
34 the court may order that the conviction be held confidential by the
35 department according to Section 1808.7 if the offense is not alleged
36 to have occurred within 18 months of another offense that was
37 held confidential under this section, and the court may order or
38 permit completion of a licensed traffic violator school program.

39 (b) Subdivision (a) does not apply to a person who receives a
40 notice to appear as to, or is otherwise charged with, a violation of

1 an offense described in subdivisions (a) to (e), inclusive, of Section
2 12810.

3 SEC. 13. Section 42005 of the Vehicle Code is amended to
4 read:

5 42005. (a) Except as otherwise provided in this section, after
6 a deposit of the fee under Section 42007 or bail, a plea of guilty
7 or no contest, or a conviction, a court may order or permit a person
8 who holds a noncommercial class C, class M1, or class M2 driver's
9 license who pleads guilty or no contest or is convicted of a traffic
10 violation to attend a traffic violator school licensed pursuant to
11 Chapter 1.5 (commencing with Section 11200) of Division 5.

12 (b) Pursuant to Title 49 of the Code of Federal Regulations, the
13 court may not order or permit a person who holds a class A, class
14 B, or commercial class C driver's license to complete a licensed
15 traffic violator school, in lieu of adjudicating any traffic offense
16 or order that a conviction of a traffic offense by a person holding
17 a class A, class B, or commercial class C driver's license be kept
18 confidential.

19 (c) The court shall not order that a conviction of an offense be
20 kept confidential according to Section 1808.7 or permit a person,
21 regardless of the driver's license class, to complete a program at
22 a licensed traffic violator school in lieu of adjudicating an offense
23 if either of the following applies to the offense:

24 (1) It occurred in a commercial motor vehicle, as defined in
25 subdivision (b) of Section 15210 ~~or~~.

26 (2) Is a violation of Section 20001, 20002, 23103, 23104, 23105,
27 23140, 23152, or 23153, or of Section 23103, as specified in
28 Section 23103.5.

29 (d) A person ordered to attend a traffic violator school pursuant
30 to subdivision (a) may choose the traffic violator school the person
31 will attend. The court shall make available to each person subject
32 to that order information regarding obtaining the department's
33 current list of traffic violator schools published online by the
34 department pursuant to Section 11205.

35 (e) A person who willfully fails to comply with a court order
36 to attend traffic violator school is guilty of a misdemeanor.

37 (f) *In those counties in which, prior to January 1, 1985, one or*
38 *more individual courts, or the county acting on behalf of one or*
39 *more individual courts, contracted for the provision of traffic safety*
40 *instructional services to traffic violators referred by the court*

1 pursuant to a pretrial diversion program, the courts may restrict
2 referrals under this section to those schools for traffic violators
3 or licensed driving schools that are under contract with the court
4 or with the county to provide traffic safety instructional services
5 for persons referred pursuant to subdivision (a).

6 (g) A county described in Section 28023 of the Government
7 Code may continue to provide the program authorized by this
8 section in accordance with the provisions of current and future
9 contracts as may be amended and approved by the individual
10 courts within that county and the county shall be exempt from state
11 regulations relative to maximum classroom attendance.

12 (h) Notwithstanding subdivisions (f) and (g), a court in the
13 counties described in those subdivisions shall comply with the
14 prohibitions set forth in subdivisions (c) and (d).

15 (i) This section shall become inoperative on April 1, 2012, and,
16 as of January 1, 2013, is repealed, unless a later enacted statute
17 that is enacted before January 1, 2013, deletes or extends the dates
18 on which it becomes inoperative and is repealed.

19 SEC. 13.5. Section 42005 is added to the Vehicle Code, to
20 read:

21 42005. (a) Except as otherwise provided in this section, after
22 a deposit of the fee under Section 42007 or bail, a plea of guilty
23 or no contest, or a conviction, a court may order or permit a person
24 who holds a noncommercial class C, class M1, or class M2 driver's
25 license who pleads guilty or no contest or is convicted of a traffic
26 violation to attend a traffic violator school licensed pursuant to
27 Chapter 1.5 (commencing with Section 11200) of Division 5.

28 (b) Pursuant to Title 49 of the Code of Federal Regulations, the
29 court may not order or permit a person who holds a class A, class
30 B, or commercial class C driver's license to complete a licensed
31 traffic violator school, in lieu of adjudicating any traffic offense
32 or order that a conviction of a traffic offense by a person holding
33 a class A, class B, or commercial class C driver's license be kept
34 confidential.

35 (c) The court shall not order that a conviction of an offense be
36 kept confidential according to Section 1808.7 or permit a person,
37 regardless of the driver's license class, to complete a program at
38 a licensed traffic violator school in lieu of adjudicating an offense
39 if either of the following applies to the offense:

1 (1) *It occurred in a commercial motor vehicle, as defined in*
2 *subdivision (b) of Section 15210.*

3 (2) *Is a violation of Section 20001, 20002, 23103, 23104, 23105,*
4 *23140, 23152, or 23153, or of Section 23103, as specified in*
5 *Section 23103.5.*

6 (d) *A person ordered to attend a traffic violator school pursuant*
7 *to subdivision (a) may choose the traffic violator school the person*
8 *will attend. The court shall make available to each person subject*
9 *to that order information regarding obtaining the department's*
10 *current list of traffic violator schools published online by the*
11 *department pursuant to Section 11205.*

12 (e) *A person who willfully fails to comply with a court order to*
13 *attend traffic violator school is guilty of a misdemeanor.*

14 (f) *This section shall become operative on April 1, 2012.*

15 SEC. 14. Section 42005.1 of the Vehicle Code is amended to
16 read:

17 42005.1. The court may order a person designated to attend a
18 traffic violator school to instead participate in a study of traffic
19 violator schools licensed pursuant to Chapter 1.5 (commencing
20 with Section 11200) of Division 5. The person's participation in
21 that study constitutes attending a licensed traffic violator school
22 program.

23 SEC. 15. Section 42005.5 of the Vehicle Code is amended to
24 read:

25 42005.5. Notwithstanding Section 46300 or 84500 of the
26 Education Code or any other provision of law, on and after
27 September 1, 1985, attendance at a school for traffic violators
28 permitted or ordered pursuant to Section 41501 or 42005 shall not
29 be included in computing the average daily attendance of any
30 school district, community college district, or other public
31 educational institution for purposes of allocation of state funds.

32 SEC. 16. Section 42007 of the Vehicle Code is amended to
33 read:

34 42007. (a) (1) The clerk of the court shall collect a fee from
35 every person who is ordered or permitted to attend a traffic violator
36 school pursuant to Section 41501 or 42005. The fee shall be in an
37 amount equal to the total bail set forth for the eligible offense on
38 the uniform countywide bail schedule. As used in this subdivision,
39 "total bail" means the amount established pursuant to Section
40 1269b of the Penal Code in accordance with the Uniform Statewide

1 Bail Schedule adopted by the Judicial Council, including all
2 assessments, surcharges, and penalty amounts. If multiple offenses
3 are charged in a single notice to appear, the “total bail” is the
4 amount applicable for the greater of the qualifying offenses.
5 However, the court may determine a lesser fee under this
6 subdivision upon a showing that the defendant is unable to pay
7 the full amount. The fee shall not include the cost, or any part
8 thereof, of traffic safety instruction offered by the school.

9 (2) The clerk may accept from a defendant who is ordered or
10 permitted to attend traffic violator school a payment of at least 25
11 percent of the fee required by paragraph (1) upon filing a written
12 agreement by the defendant to pay the remainder of the fee
13 according to an installment payment schedule of no more than 90
14 days as agreed upon with the court. The Judicial Council shall
15 prescribe the form of the agreement for payment of the fee in
16 installments. If the defendant signs the Judicial Council form for
17 payment of the fee in installments, the court shall continue the
18 case to the date in the agreement to complete payment of the fee
19 and submit the certificate of completion of traffic violator school
20 to the court. The clerk shall collect a fee of up to thirty-five dollars
21 (\$35) to cover the cost of processing an installment payment of
22 the traffic violator school fee under this paragraph.

23 (3) If a defendant fails to make an installment payment of the
24 fee according to an installment agreement, the court may convert
25 the fee to bail, declare it forfeited, and report the forfeiture as a
26 conviction under Section 1803. The court may also charge a failure
27 to pay under Section 40508 and impose a civil assessment as
28 provided in Section 1214.1 of the Penal Code or issue an arrest
29 warrant for a failure to pay.

30 (b) Revenues derived from the fee collected under this section
31 shall be deposited in accordance with Section 68084 of the
32 Government Code in the general fund of the county and, as may
33 be applicable, distributed as follows:

34 (1) In any county in which a fund is established pursuant to
35 Section 76100 or 76101 of the Government Code, the sum of one
36 dollar (\$1) for each fund so established shall be deposited with the
37 county treasurer and placed in that fund.

38 (2) In any county that has established a Maddy Emergency
39 Medical Services Fund pursuant to Section 1797.98a of the Health
40 and Safety Code, an amount equal to the sum of each two dollars

(§2) for every seven dollars (\$7) that would have been collected pursuant to Section 76000 of the Government Code and, commencing January 1, 2009, an amount equal to the sum of each two dollars (\$2) for every ten dollars (\$10) that would have been collected pursuant to Section 76000.5 of the Government Code with respect to those counties to which that section is applicable shall be deposited in that fund. Nothing in the act that added this paragraph shall be interpreted in a manner that would result in either of the following:

(A) The utilization of penalty assessment funds that had been set aside, on or before January 1, 2000, to finance debt service on a capital facility that existed before January 1, 2000.

(B) The reduction of the availability of penalty assessment revenues that had been pledged, on or before January 1, 2000, as a means of financing a facility that was approved by a county board of supervisors, but on January 1, 2000, is not under construction.

(3) The amount of the fee that is attributable to Section 70372 of the Government Code shall be transferred pursuant to subdivision (f) of that section.

(c) For fees resulting from city arrests, an amount equal to the amount of base fines that would have been deposited in the treasury of the appropriate city pursuant to paragraph (3) of subdivision (b) of Section 1463.001 of the Penal Code shall be deposited in the treasury of the appropriate city.

(d) The clerk of the court, in a county that offers traffic school shall include in any courtesy notice mailed to a defendant for an offense that qualifies for traffic school attendance the following statement:

NOTICE: If you are eligible and decide not to attend traffic school your automobile insurance may be adversely affected. One conviction in any 18-month period will be held confidential and not show on your driving record if you complete a traffic violator school program.

(e) Notwithstanding any other provision of law, a county that has established a Maddy Emergency Medical Services Fund pursuant to Section 1797.98a of the Health and Safety Code shall not be held liable for having deposited into the fund, prior to January 1, 2009, an amount equal to two dollars (\$2) for every ten

1 dollars (\$10) that would have been collected pursuant to Section
2 76000.5 of the Government Code from revenues derived from
3 traffic violator school fees collected pursuant to this section.

4 SEC. 17. Section 42007.1 of the Vehicle Code is amended to
5 read:

6 42007.1. (a) The fee collected by the clerk pursuant to
7 subdivision (a) of Section 42007 shall be in an amount equal to
8 the total bail set forth for the eligible offense on the uniform
9 countywide bail schedule plus a forty-nine-dollar (\$49) court
10 administrative fee and a fee determined by the department to be
11 sufficient to defray the cost of routine monitoring of traffic violator
12 school instruction pursuant to subdivision (b) of Section 11208.

13 (b) Notwithstanding subdivision (b) of Section 42007, the
14 revenue from the forty-nine-dollar (\$49) fee collected under this
15 section shall be deposited in the county general fund. Fifty-one
16 percent of the amount collected under this section and deposited
17 into the county general fund shall be transmitted therefrom monthly
18 to the Controller for deposit in the Immediate and Critical Needs
19 Account of the State Court Facilities Construction Fund,
20 established in Section 70371.5 of the Government Code.

21 (c) The fee assessed pursuant to subdivision (b) of Section 11208
22 shall be allocated to the department to defray the costs of
23 monitoring traffic violator school instruction.

24 SEC. 18. Section 42007.3 of the Vehicle Code is amended to
25 read:

26 42007.3. (a) Notwithstanding Section 42007, revenues derived
27 from fees collected under Section 42007 from each person required
28 or permitted to attend traffic violator school pursuant to Section
29 41501 or 42005 as a result of a violation of subdivision (a) or (c)
30 of Section 21453, subdivision (c) of Section 21454, or subdivision
31 (a) of Section 21457 shall be allocated as follows:

32 (1) The first 30 percent of the amount collected shall be allocated
33 to the general fund of the city or county in which the offense
34 occurred.

35 (2) The balance of the amount collected shall be deposited by
36 the county treasurer under Section 42007.

37 (b) This section does not apply to the additional forty-nine-dollar
38 (\$49) court administrative fee assessed pursuant to subdivision (b)
39 of Section 11208 collected under subdivision (a) of Section
40 42007.1.

SEC. 19. Section 42007.4 of the Vehicle Code is amended to read:

42007.4. (a) Notwithstanding Section 42007, revenues derived from fees collected under Section 42007 from each person required or permitted to attend traffic violator school pursuant to Section 369b of the Penal Code as a result of a violation of subdivision (c) of Section 21752, involving railroad grade crossings, or Section 22451 or 22452 shall be allocated as follows:

(1) If the offense occurred in an area where a transit district or transportation commission established under Division 12 (commencing with Section 130000) of the Public Utilities Code provides rail transportation, the first 30 percent of the amount collected shall be allocated to the general fund of that transit district or transportation commission to be used only for public safety and public education purposes relating to railroad grade crossings.

(2) If there is no transit district or transportation commission providing rail transportation in the area where the offense occurred, the first 30 percent of the amount collected shall be allocated to the general fund of the county in which the offense occurred, to be used only for public safety and public education purposes relating to railroad grade crossings.

(3) The balance of the amount collected shall be deposited by the county treasurer under Section 1463 of the Penal Code.

(4) A transit district, transportation commission, or a county that is allocated funds pursuant to paragraph (1) or (2) shall provide public safety and public education relating to railroad grade crossings only to the extent that those purposes are funded by the allocations provided pursuant to paragraph (1) or (2).

(b) This section does not apply to the additional forty-nine-dollar (\$49) court administrative fee assessed pursuant to subdivision (b) of Section 11208 collected under subdivision (a) of Section 42007.1.

SEC. 20. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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